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**TITLE 326 AIR POLLUTION CONTROL DIVISION**

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**FINDINGS AND DETERMINATION OF THE COMMISSIONER  
PURSUANT TO [IC 13-14-9-8](#) AND DRAFT RULE  
LSA Document #17-432****LAWRENCEBURG TOWNSHIP, DEARBORN COUNTY REDESIGNATION TO ATTAINMENT FOR THE 2008 8-HOUR OZONE STANDARD****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to [326 IAC 1-4-16](#) to redesignate Lawrenceburg Township in Dearborn County to attainment for the 2008 8-hour National Ambient Air Quality Standards for ozone. IDEM is soliciting written comment on the draft rule language and will schedule a public hearing before the Environmental Rules Board (board) for consideration of adoption of these rules.

**CITATIONS AFFECTED:** [326 IAC 1-4-16](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-17-3](#).

**STATUTORY REQUIREMENTS**

[IC 13-14-9-8](#) recognizes that, under certain circumstances, it may be appropriate to reduce the number of public comment periods and public hearings usually provided for under the [IC 13-14-9](#) environmental rulemaking process. In cases where the commissioner determines that there is no reasonably anticipated benefit from a second public comment period and first public hearing to either the environment or persons regulated or otherwise affected by the proposed rule, IDEM may forgo these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for adoption. Two opportunities for public comment (with this notice and at the public hearing prior to adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by [IC 13-14-9-8](#), the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for adoption and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to [IC 13-14-9-8](#).

The statute provides for this shortened rulemaking process if the commissioner determines that:

(1) the rule constitutes:

(A) an adoption or incorporation by reference of a federal law, regulation, or rule that:

(i) is or will be applicable to Indiana; and

(ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;

(B) a technical amendment with no substantive effect on an existing Indiana rule; or

(C) an amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and

(2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in [IC 13-14-9-7\(a\)\(2\)](#) from:

(A) exposing the rule to diverse public comment under [IC 13-14-9-3](#) or [IC 13-14-9-4](#);

(B) affording interested or affected parties the opportunity to be heard under [IC 13-14-9-3](#) or [IC 13-14-9-4](#); and

(C) affording interested or affected parties the opportunity to develop evidence in the record collected under [IC 13-14-9-3](#) and [IC 13-14-9-4](#).

**BACKGROUND**

On March 17, 2017, the United States Environmental Protection Agency (U.S. EPA) approved the Request for Redesignation Petition and Maintenance Plan for Ozone Attainment for the Indiana portion (Lawrenceburg Township, Dearborn County) of the Cincinnati-Hamilton, Ohio-Kentucky-Indiana 2008 8-hour ozone nonattainment area submitted by IDEM on February 23, 2016. U.S. EPA published the final rule to redesignate Lawrenceburg Township in Dearborn County to attainment for the 2008 8-hour ozone standard on April 7, 2017 (82 FR 16940). The federal rulemaking allows new major sources and major modifications at existing sources to be permitted under the Prevention of Significant Deterioration (PSD) rules in [326 IAC 2-2](#), rather than the more restrictive Emission Offset rules in [326 IAC 2-3](#).

On April 12, 2017, the board approved an emergency rule that temporarily revised [326 IAC 1-4-16](#) to redesignate Lawrenceburg Township in Dearborn County to attainment for the 2008 8-hour ozone standard until the regular rulemaking is completed. The emergency rule ensures that permits for affected sources can be issued

without delay under the less restrictive PSD program requirements, which contributes economic benefits to the redesignated area. This rulemaking will formally change the area designation to attainment so the emergency rule can be discontinued.

IDEM is proposing to amend [326 IAC 1-4-16](#) to redesignate Lawrenceburg Township in Dearborn County to attainment for the 2008 8-hour ozone standard.

**[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law**

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. This draft rule imposes no restrictions or requirements because it is a direct adoption of federal requirements that are applicable to Indiana and contains no amendments that have a substantive effect on the scope or application of the federal rule.

**Potential Fiscal Impact**

There will be no fiscal impact from the implementation of this rule beyond that already imposed by federal law. This rulemaking amends [326 IAC 1-4-16](#) to redesignate Lawrenceburg Township in Dearborn County to attainment for the 2008 8-hour ozone standard to be consistent with federal regulations.

**Public Participation and Work Group Information**

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Keelyn Walsh, Rules Development Branch, Office of Legal Counsel at (317) 232-8229 or (800) 451-6027 (in Indiana).

**Small Business Assistance Information**

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP and other resources available can be found at:

[www.in.gov/idem/ctap](http://www.in.gov/idem/ctap)

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Angela Taylor  
IDEM Small Business Regulatory Coordinator/CTAP Small Business Liaison  
IGCN 1316  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 233-0572 or (800) 988-7901  
[ctap@idem.in.gov](mailto:ctap@idem.in.gov)

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Katelyn Colclazier  
Small Business Ombudsman  
Indiana Economic Development Corporation  
One North Capitol, Suite 700  
Indianapolis, IN 46204  
(317) 431-1560  
[kcolclazier@iedc.in.gov](mailto:kcolclazier@iedc.in.gov)

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Brian Rockensuess  
IDEM Small Business Assistance Program Ombudsman/Office of Government and Community Affairs  
IGCN 1301  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 234-3386 or (800) 451-6027  
[brockens@idem.in.gov](mailto:brockens@idem.in.gov)

**FINDINGS**

The commissioner of IDEM has prepared findings regarding this rulemaking to update the attainment designation status as required by federal rule. These findings are prepared under [IC 13-14-9-8](#) and are as follows:

- (1) This rule is the direct adoption of a federal requirement that is applicable to Indiana and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.
- (2) Indiana is required by state law to adopt rules classifying regions into attainment or nonattainment areas

for regulated pollutants under [IC 13-17-3-14](#).

(3) The environment and persons regulated or otherwise affected by the proposed rule will benefit from prompt adoption of this rule, because it will make the attainment status of Lawrenceburg Township in Dearborn County consistent with federal regulations.

(4) I have determined that, under the specific circumstances pertaining to this rule, there would be no reasonably anticipated benefit to the environment or to persons regulated or otherwise affected by the proposed rule from the first or second written comment period under [IC 13-14-9-3](#) or [IC 13-14-9-4](#), or from the first public hearing under [IC 13-14-9-5\(a\)\(1\)](#).

(5) The draft rule is hereby incorporated into these findings.

Bruno L. Pigott  
Commissioner  
Indiana Department of Environmental Management

## REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #17-432 Lawrenceburg Township Attainment for Ozone  
Keelyn Walsh  
Rules Development Branch  
Office of Legal Counsel  
Indiana Department of Environmental Management  
Indiana Government Center North  
100 North Senate Avenue  
Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of your faxed comments by calling the Rules Development Branch at (317) 232-8922.

(3) By electronic mail to [kwalsh131@idem.in.gov](mailto:kwalsh131@idem.in.gov). To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

## COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than November 3, 2017. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Keelyn Walsh, Rules Development Branch, Office of Legal Counsel, (317) 232-8229 or (800) 451-6027 (in Indiana).

## DRAFT RULE

SECTION 1. [326 IAC 1-4-16](#) IS AMENDED TO READ AS FOLLOWS:

### [326 IAC 1-4-16](#) Dearborn County

Authority: [IC 13-14-8](#); [IC 13-17](#)

Affected: [IC 13-15](#)

Sec. 16. The following attainment status designations are applicable to Dearborn County:

Pollutant	Designation
SO <sub>2</sub>	Cannot be classified.
CO	Unclassifiable or attainment effective November 15, 1990.
O <sub>3</sub>	<del>Nonattainment</del> Attainment effective <del>July 20, 2012</del> , <b>April 7, 2017</b> , for the 2008 8-hour ozone

	standard for Lawrenceburg Township. Unclassifiable or attainment effective July 20, 2012, for the 2008 8-hour ozone standard for the remainder of the county. <sup>1</sup>
PM <sub>2.5</sub>	Attainment effective December 23, 2011, for the annual PM <sub>2.5</sub> standard for Lawrenceburg Township. Unclassifiable or attainment effective April 5, 2005, for the annual PM <sub>2.5</sub> standard for the remainder of the county.
PM <sub>2.5</sub>	Unclassifiable or attainment effective December 13, 2009, for the 24-hour PM <sub>2.5</sub> standard.
PM <sub>10</sub>	Unclassifiable effective November 15, 1990.
NO <sub>2</sub>	Cannot be classified or better than national standards.
Pb	Unclassifiable or attainment effective December 31, 2011.
<sup>1</sup> Unclassifiable or attainment effective October 18, 2000, for the 1-hour ozone standard which was revoked effective June 15, 2005.	

(Air Pollution Control Division; [326 IAC 1-4-16](#); filed Dec 26, 2007, 1:43 p.m.: [20080123-IR-326070308FRA](#); filed Oct 15, 2010, 1:51 p.m.: [20101110-IR-326100342FRA](#); filed Jun 12, 2012, 3:22 p.m.: [20120711-IR-326120044FRA](#); filed Jan 30, 2013, 12:34 p.m.: [20130227-IR-326110774FRA](#); filed Oct 25, 2013, 2:41 p.m.: [20131120-IR-326130164FRA](#))

#### [Notice of Public Hearing](#)

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An [html](#) version of this document.